

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
NOVEMBER 25, 2002
HUGHES AUDITORIUM
6:30 P.M.

CALL TO ORDER

Mayor Jennings called the meeting to order at 6:30 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Jeffrey Jennings, Mayor Pro Tem Ken Kearsley, Councilmembers Sharon Barovsky, Joan House and Andrew Stern.

ALSO PRESENT: Katie Lichtig, City Manager; Christi Hogin, City Attorney; Vic Peterson, Building Official; Julia James, Administrative Services Director; Paul Adams, Parks and Recreation Director; Rick Morgan, City Engineer / Acting Public Works Director; Lt. Van Herpe, Sheriff's Department; and Lisa Pope, City Clerk

FLAG SALUTE

Cameron Coughlan led the Pledge of Allegiance.

CLOSED SESSION REPORT

City Attorney Hogin reported that the Council met in closed session at 5:30 p.m. to discuss the following items:

Existing litigation per Government Code Section 54956.9 (a):

1. Antario v. City of Malibu
Los Angeles County Superior Court Case No. BC253990
2. Cher v. City of Malibu
Los Angeles County Superior Court Case No. SS10632
3. Chicksands Properties LTD. v. City of Malibu et al.
Los Angeles County Superior Court Case No. BS072081
4. City of Malibu v. California Coastal Commission (Streisand Center Coastal Permit)
Los Angeles County Superior Court Case No. BC230410
5. City of Malibu v. California Coastal Commission / TLC / Liebig (Referendum)
Los Angeles County Superior Court Case No. SS011355

6. City of Malibu v. California Coastal Commission
Los Angeles County Superior Court Case No. SC074641
7. City of Malibu v. Santa Monica Mountains Conservancy (Streisand Center)
Ventura County Superior Court Case No. CIV193900
8. Darian v. Accent Builders et al.
United States District Court Case No. 00-10255-FMC(JWJ)
9. Keach v. City of Malibu
Los Angeles County Superior Court Case No. SS009723
10. Land Use Preservation Defense Fund v. California Coastal Commission (LUP/City is Real Party in Interest)
Los Angeles County Superior Court Case No. SS011388
11. Marine Forest Society v. California Coastal Commission Case No. 00AS00567 (Sacramento Superior Court) (Amicus)
12. Rubens v. City of Malibu
Los Angeles County Superior Court Case No. SC060331
13. Sprint v. City of Malibu et al
United States District Court Case No. SACV02660 DOC (MLGx)
14. Sweeney et al v. California Coastal Commission (LCP/City is Real Party in Interest)
Los Angeles County Superior Court Case No. SS011387
15. Taxpayers for Livable Communities; Jay Liebig v. City of Malibu
Los Angeles County Superior Court Case No. BC258432
16. Taxpayers for Livable Communities; Jay Liebig II v. City of Malibu
Los Angeles County Superior Court Case No. BS0735585
17. Taxpayers for Livable Communities, Povah, et al. v. City of Malibu
Los Angeles County Superior Court Case No. BS072794

Initiation of Litigation pursuant to Government Code Section 54956.9(c):

18. Number of cases: 2

Conference With Legal Counsel – Anticipated Litigation pursuant to Government Code Section 54956.9(b):

19. Number of Cases: 1

Conference with Labor Negotiators pursuant to Government Code Section 54957.6:

20. Unrepresented employee: City Treasurer

City Attorney Hogin announced that the Council discussed some but not all items listed on the Closed Session Agenda and took no reportable action. She indicated the City entered into a settlement agreement with Mr. Antario and she discussed the terms of the agreement.

APPROVAL OF AGENDA

MOTION Councilmember Barovsky moved and Councilmember Stern seconded a motion to approve the agenda. The motion carried unanimously.

REPORT ON POSTING OF AGENDA

City Clerk Pope reported that the agenda for the meeting was posted on November 15, 2002, with the amended agenda posted on November 22, 2002.

ITEM 1 CEREMONIAL/PRESENTATIONS

A. Presentation of City Tile to Richard Calvin, Maintenance Manager, for Seven Years of Service to the City

City Engineer / Acting Public Works Director Morgan discussed Richard Calvin's service to the City over the last 7 years. Mayor Jennings presented a City tile to Richard Calvin, Maintenance Manager. Mr. Calvin thanked the Council for their support.

B. Recognition of Cameron Coughlan for his accomplishments in the Sport of Baseball

Mayor Jennings presented a proclamation to Cameron Coughlan commending him on his athletic achievements. Mr. Coughlan thanked the Council for honoring him. He thanked his family and friends who have supported him in achieving his dream.

C. Presentation by Santa's Helpers regarding City-sponsored "Breakfast with Santa" event, December 14, 2002

Recreation Supervisor Odello announced the Annual Breakfast with Santa Event on Saturday, December 14 at the Point Dume Community Center. Nidra Winger indicated the event was sponsored by the City of Malibu Parks and Recreation Department, Kiwanis Club, and Point Dume Community Services District. She explained that the proceeds would go towards scholarships for Malibu team sports. Santa invited the residents to attend the event.

D. Proclamation Declaring December 1, 2002 as World Aids Day

Mayor Jennings read the proclamation declaring December 1, 2002 as World Aids Day.

ITEM 2A. PUBLIC COMMENTS

Dean Isaacson addressed the Council regarding the realignment of Zumirez Drive. He pledged to contribute \$20,000 to assist with the realignment project. He discussed the negotiations related to Trancas-PCH, LLC and indicated the negotiations had reached an impasse. He discussed the offers to the City by Trancas-PCH.

John Mazza, Point Dume Community Association Riviera I, thanked the City for resolving the Zumirez street matter. He suggested a small pocket park be created on the abandoned City street.

B. COUNCIL COMMENTS

Mayor Pro Tem Kearsley stated he and Councilmember House attended the Parks and Recreation Commission meeting at which fundraising for the benefit of children was discussed. Councilmember House indicated the matter would come back as an agenda item.

Councilmember House discussed the Parks and Recreation Commission meeting and fundraising efforts. She stated she and Councilmember Barovsky met with local supermarket managers to discuss fundraising, including Round Up for Kids. She indicated the matter would come back to the Council in January 2003. She thanked Mr. Isaacson for his \$20,000 donation for the Zumirez Road realignment project. She indicated support for Mr. Mazza's idea of a pocket park. She commended Mr. Calvin for his hard work for the City. She congratulated Cameron Coughlan for his athletic success. She reported that the Council ad hoc committee met to discuss fundraising for youth activities and recreational opportunities.

Councilmember Stern thanked Mr. Isaacson for his donation. He indicated support for the pocket park. He congratulated Cameron Coughlan. He commended Richard Calvin for going above and beyond the call of duty.

Mayor Jennings echoed the comments about Richard Calvin. He thanked Mr. Isaacson for his generous contribution. He indicated support for a pocket park on Zumirez. He stated Cameron Coughlan was an outstanding athlete.

CONSENSUS

By consensus, the Council directed the City Manager to review the possibility of an affinity city charge card as a fundraising mechanism.

ITEM 3 CONSENT CALENDAR

MOTION Councilmember House moved and Mayor Pro Tem Kearsley seconded a motion to approve the Consent Calendar. The motion carried unanimously.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

B. New Items

1. Waive further reading

Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

2. Approve Warrants

Staff recommendation: To allow and approve warrant demand numbers 20556 through 20670 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 273 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$575,680.97 including ADP payroll voucher numbers 252151-252163.

3. Re-affirm the State of Local Emergency Declared by the Director of Emergency Services on March 9, 2001 relating to the Landslide Road Failure at Corral Canyon

Staff recommendation: Re-affirm the State of Local Emergency by minute order.

4. Approval of Minutes

Staff recommendation: Approve City Council meeting minutes for the regular meeting held on October 28, 2002 and the Quarterly meeting held on October 30, 2002.

5. Consider Proposed 2003 Calendar of City Council Meetings for Adoption

Staff recommendation: Approve proposed 2003 Calendar of City Council meetings.

6. Approval of Final Parcel Map No. 25498 (Blanc Par-E / Winding Way)

Staff recommendation: Adopt Resolution No. 02-48 approving Final Parcel Map No. 25498 for recordation.

7. Extension of Contract for Grants Coordinator

Staff recommendation: Direct the City Manager to extend the professional services agreement with Barbara Cameron consistent with the attached updated scope of work for a period to expire on June 30, 2004.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

A. Storm Water and Urban Runoff Pollution Control Ordinance No. 243

Staff recommendation: 1) After City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 243, amending the storm water and urban runoff pollution control ordinance to provide storm water pollution control for planning and construction of new development and redevelopment projects and amending and supplementing the Malibu Municipal Code; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 243 on December 9, 2002.

City Engineer / Acting Public Works Director Morgan presented the staff report.

Mayor Jennings asked if the changes were dictated by the National Pollutant Discharge Elimination System (NPDES). City Engineer / Acting Public Works Director Morgan indicated the amendments brought the City into compliance with the new permit.

City Attorney Hogin explained that the City was bound by the permit to incorporate the required language.

Mayor Jennings asked the extent and meaning of the provisions relating to new residential construction and residential remodels. Mayor Pro Tem Kearsley requested reconstruction be included in the explanation.

MOTION Mayor Pro Tem Kearsley moved and Councilmember Barovsky seconded a motion to introduce on first reading Ordinance No. 243, amending the storm water and urban runoff pollution control ordinance to provide storm water pollution control for planning and construction of new development and redevelopment projects and amending and supplementing the Malibu Municipal Code and directed staff to schedule second reading and adoption of Ordinance No. 243 on December 9, 2002. The question was called and the motion carried unanimously.

ITEM 5 OLD BUSINESS

A. Comprehensive Local Coastal Program (LCP) Application – Review of Introductory and Coastal Access Provisions

Staff recommendation: Consider potential modifications to the City's General Plan and to the September 2002 LCP and provide direction to the consultant for preparation of the LCP application.

Planning Director Purvis introduced Lloyd Zola, LSA Associates, and presented the staff report.

John Mazza, Point Dume Community Association, provided a letter dated November 5, 2001 from the Malibu Riviera Homeowner's Associations. He presented proposed changes to the Land Use Plan.

Mary Ayerst provided comments and suggested changes to the proposed amendments.

Lloyd Zola, LSA Associates, reviewed the suggested modifications to the Malibu Local Coastal Program Land Use Plan, Chapters 1 and 2; suggested modifications to the Malibu Local Coastal Program Implementation Plan, Chapters 1 and 2, and 12 combined with City Municipal Code Title 17; and suggested modifications to the Malibu General Plan related to coastal access issues.

Mayor Pro Tem Kearsley suggested utilizing the introductory paragraph contained in the May 2001 LCP.

Mayor Jennings agreed that the tone of the introduction in the LUP was inappropriate. He stated the Council was better off using the Coastal Commission's language being that the introductory language did not have substantive meaning.

Mayor Pro Tem Kearsley suggested adding a positive statement indicating the City had increased public access.

Councilmember Barovsky suggested inserting a paragraph regarding the City's addition of public access including Lechuza beach and the resident's stewardship of the land.

Councilmember Stern concurred with the comments made by the Council.

Councilmember House stated the only new public beach added to the State of California was Lechuza Beach and 10 acres of wetland in Malibu Lagoon.

CONSENSUS

By consensus, the Council directed staff to modify the introductory language to add a statement regarding increased public access.

Mayor Jennings proposed continuing to advocate for revision of the definition of Coastal Bluff included in LIP (page 45).

Councilmember House questioned Section 17.02.050C. City Attorney Hogin explained its meaning.

CONSENSUS

By consensus, the Council directed staff to eliminate the first paragraph of Section 17.02.050C.

Councilmember House discussed the definition of basement (page 44). City Manager Lichtig explained that the basement ordinance was heard by the Council and referred to the Interim Zoning Ordinance Revisions and Code Enforcement Subcommittee (IZORACES).

Mayor Jennings questioned how to proceed with issues that were still in the pipeline. City Attorney Hogin suggested correcting errors in the LCP.

MOTION Councilmember House moved and Mayor Pro Tem Kearsley seconded a motion to include “all four sides” in the definition of “Basement” in Title 17 (page 44).

Mayor Jennings suggested staff bring back the definitions created by IZORACES.

Planning Director Purvis suggested flagging the definition of basement for future consideration.

Councilmember Stern urged the Council to not vote for amending the definition of basement.

Mayor Pro Tem Kearsley agreed to flag the definition of basement for future discussion.

The motion failed 1-3, Mayor Jennings, Mayor Pro Tem Kearsley, Councilmember Stern dissenting and Councilmember Barovsky abstaining.

CONSENSUS

By consensus, the Council determined to flag the definitions of basement and cellar for future discussion.

Councilmember House discussed the definition of deck in Title 17.

CONSENSUS

By consensus, the Council determined to flag the definition of deck for future discussion.

Councilmember House discussed the definition of “Grading project, off site transport” and “height, beachfront lot” and their need for revision.

Councilmember House suggested adding a definition for “drip line of a house”.

Planning Director Purvis suggested considering the policies including drip line of the house in considering the definitions.

CONSENSUS

By consensus, the Council determined to flag the possible need to add a definition of “drip line of the house.”

Mayor Pro Tem Kearsley discussed the definition of appealable coastal development permit and inclusion of sensitive coastal resource area (page 43). Mayor Jennings explained that the language came from the Coastal Act.

CONSENSUS

By consensus, the Council directed staff to change the definition of Appealable Coastal Development permit to reflect that provided in the Coastal Act.

CONSENSUS

By consensus, the Council determined to utilize the definitions in the Interim Zoning Ordinance for the LIP and then review the Coastal Commission's definitions.

Councilmember Barovsky requested review of the current definitions of hotel, motel, and bed and breakfast.

Councilmember House asked if basements were included in the total area square footage of a development. She requested the definition of living area be reviewed.

CONSENSUS

By consensus, the Council directed staff to amend Page 86 to change "certified" to "adopted".

CONSENSUS

By consensus, the Council directed staff to bring back additional information on Table 2-5 – Trancas access (page 89).

The Council reviewed Chapter 2 – Public Access and Recreation of LUP.

Councilmember Barovsky suggested agencies responsible for public access ways provide proof of liability and evidence of the ability to maintain liability insurance.

Mayor Pro Tem Kearsley questioned the definition of "qualified" in Section 2.41 (page 25). He questioned how to ensure longevity of access maintainers.

Councilmember Stern stated it cost \$24,000 per year to maintain a beach accessway.

Councilmember Barovsky requested proof that adequate liability insurance could be provided and longevity to maintain easements ensured.

CONSENSUS

By consensus, the Council directed staff to add language requiring proof of insurance.

Councilmember Stern suggested utilizing County Beaches and Harbors maintenance policies as a guideline.

CONSENSUS

By consensus, the Council directed staff to add the concept of having sufficient liability insurance to maintain the easement and longevity to maintain the easement over the long term.

Mayor Pro Tem Kearsley discussed Paradise Cove (page 35) and suggested striking various requirements.

CONSENSUS

By consensus, the Council indicated support for the inclusion of language from the 1986 LUP regarding protection of tidepools.

Mayor Jennings stated the Coastal Commission would not stand for any reduction in public access requirements.

Mayor Pro Tem Kearsley disagreed and discussed the need to protect the tidepools.

CONSENSUS

By consensus, the Council indicated it did not support eliminating “support public acquisition of sandy beach for passive recreational purposes and other recreation supporting facility.”

CONSENSUS

By consensus, the Council directed staff to review Section 2.78 (page 33).

Councilmember Barovsky suggested Mr. Zola review Mr. Mazza’s proposed changes and incorporate any as appropriate.

CONSENSUS

By consensus, the Council directed staff to define “stream” based on the Lambert letter.

CONSENSUS

By consensus, the Council directed staff to add “Where an appropriate nexus finding is made by the city” to Section 17.46 D (page 76).

Mayor Pro Tem Kearsley questioned the requirements in Section 17.46.080B (page 81).

Mayor Jennings stated the Court considered findings to determine whether or not a proposed project obstructed public access. He stated it would be necessary to

replace requirements if the current requirements were stricken. Councilmember Barovsky agreed that the requirements were over burdensome.

Mayor Jennings agreed that Section 17.46.080B2 was over burdensome. He stated it was necessary to somehow determine whether public access was restricted.

CONSENSUS

By consensus, the Council directed staff to review possible streamlining of Section 17.46.080B.

Mayor Jennings suggested “Substantial evidence that prescriptive rights exist” be changed to “where public right of access had been adjudicated.” He stated it was necessary to maintain the definition of “substantial evidence” (page 76).

Mayor Jennings discussed the definition of new development demolition and reconstruction – Section 17.46.020B2 , 3, and 4 (page 71).

CONSENSUS

By consensus, the Council directed staff to replace definitions as they exist in the statute.

Councilmember Barovsky asked about the provision to exclude signage on beach side residences.

Mayor Pro Tem Kearsley suggested adding Section 2.62c as provided by Ms. Ayerst (page 30).

CONSENSUS

By consensus, the Council directed staff to add Section 2.62a as suggested by Ms. Ayerst.

RECESS Mayor Jennings called a recess at 9:08 p.m. The meeting reconvened at 9:17 p.m. with all Councilmembers present.

ITEM 6 NEW BUSINESS

A. Recommendations for Formation of a Committee to Prepare a Possible Bond Measure Initiative for Consideration by the Council

Staff recommendation: 1) Approve the proposed formation of a bond measure committee to consider the potential and nature of a bond measure to fund specific Parks and Recreation, Trail and Public Works capital projects; 2) Appoint a ten member committee consisting of five Parks and Recreation Commissioners and one additional appointee from each Councilmember; 3) Direct the Committee hold at least two public hearings to solicit public input on potential projects and that the Committee be directed to focus on projects or acquisitions that can be completed within three to five years from passage of the initiative if provided

with appropriate funding; and 4) Direct the Committee to return with recommendations by a specific date.

Parks and Recreation Director Adams presented the staff report.

MOTION Councilmember Barovsky moved and Councilmember House seconded a motion to: 1) Approve the proposed formation of a bond measure committee to consider the potential and nature of a bond measure to fund specific Parks and Recreation, Trail and Public Works capital projects; 2) Appoint a ten member committee consisting of five Parks and Recreation Commissioners and one additional appointee from each Councilmember; 3) Direct the Committee hold at least two public hearings to solicit public input on potential projects and that the Committee be directed to focus on projects or acquisitions that can be completed within three to five years from passage of the initiative if provided with appropriate funding; and 4) Direct the Committee to return with recommendations by a specific date, aiming for June 2003.

AMENDMENT

Councilmember House moved to amend the motion to direct staff to advertise for appointment to the Bond Measure Committee as well as Mayor Jennings's appointment to the Parks and Recreation Commission and that the committee should review the Parks and Recreation Master Plan, hold public hearings, obtain suggestions and ideas. Councilmember Barovsky accepted the amendment.

Mayor Jennings asked if this bond was different from last bond in that it was only parks and recreation not open space preservation.

City Attorney Hogin stated the agenda indicates the bond committee would be focusing on funding parks and recreations and public works projects and trails and public works capital projects.

Councilmember House suggested willing sellers be sought.

Mayor Jennings stated he had heard the School District would be trying again for a parcel tax.

Mayor Pro Tem Kearsley stated he had told the Superintendent of Schools that the City would be going for another bond measure after the School District in November.

Councilmember Barovsky stated those involved in the School District bond were in the process of reevaluating and would probably not be ready to go until November 2003.

The amended motion carried unanimously.

B. Analysis of Law Enforcement Services Provided by the Los Angeles County Sheriff's Department

Staff recommendation: Accept presentation by Jeff Templeman and consider the proposed alternatives.

Administrative Services Director James presented the staff report.

Jeff Templeman provided an overview of the Summary of Findings presented to the City of Malibu, California by Jeffrey W. Templeman & Associates July 2002.

Councilmember House asked about traffic accident reporting by the Traffic Team Leader. Lt. Van Herpe explained that the team leader responded to critical accidents, including fatalities. Councilmember House asked how the Traffic Team Leader spent his time to account for the cost paid by the City. Lt. Van Herpe stated the Traffic Team Leader was assigned to enforcement on weekends during summer months. He discussed other duties assigned to the Traffic Team Leader. Councilmember House asked what would happen if the Traffic Team Leader was eliminated. Lt. Van Herpe indicated that workload would have to be redistributed.

Councilmember House asked Public Safety Commission Chair Randall to address the Council. Chair Randall indicated the Commission had voted to receive and file the report. She stated the intent was to maintain current levels of traffic enforcement.

Councilmember Barovsky asked about the Traffic Team Leader handling film permits. Lt. Van Herpe explained that the Traffic Team Leader worked on film permits which was reimbursed to the City through the film permit fees.

Mayor Pro Tem Kearsley asked how much time on task was spent on the highway. Lt. Van Herpe estimate 15% time was spent on the highway. Mayor Pro Tem Kearsley asked about the allocation of cost for maintenance. Lt. Van Herpe explained that overhead including liability were included in the contract model cost.

Mayor Jennings asked about the amount of time the team leader spent on film permits and special events related issues. Mr. Templeman explained the film permit staffing process. City Manager Lichtig explained that film permit fees included the Traffic Team Leader's time for administrative work on film permits.

Councilmember House expressed appreciation for the analysis. She stated she would not support changing the Sheriff's Department contract but would like a follow up report on the Traffic Team Leader's duties.

Mayor Pro Tem Kearsley discussed the need for educating and protecting children. He stated the Traffic Team Leader money could be better spent funding programs in the schools.

Councilmember Barovsky stated the City's first responsibility was the health and safety of the community. She suggested administrative tasks be divided. She indicated she would support the Templeman recommendation to support youth programs.

Councilmember Stern stated the money was needed to support school programs. He indicated support for the recommendation in Templeman's report.

Councilmember House requested obtaining a report on the Traffic Team Leader duties prior to making a decision.

MOTION Mayor Jennings moved and Councilmember House seconded a motion to receive and file the report and defer action until a report was received from the Sheriff's Department on the Traffic Team Leader duties.

Mayor Pro Tem Kearsley stated the Council needed to take a stand on priorities and allocate \$165,000 to youth services.

The motion failed 2-3, Mayor Pro Tem Kearsley, Councilmember Stern and Councilmember Barovsky dissenting.

MOTION Mayor Pro Tem Kearsley moved and Councilmember Stern seconded a motion to eliminate the Traffic Team Leader and direct staff to work to allocate funds to youth services. The motion carried 3-2, Councilmember House and Mayor Jennings dissenting.

C. Consideration of Options Regarding a Malibu Representative on the Metropolitan Transportation Authority (MTA) Westside/Central Service Sector Governance Council

Staff recommendation: Determine whether Malibu should seek an appointment to serve on the MTA's Westside/Central Service Sector Council. If the City wishes to seek an appointment, determine if a Councilmember or a member of the public should be nominated.

City Manager Lichtig presented the staff report.

MOTION Councilmember House moved and Mayor Pro Tem Kearsley seconded a motion to pursue an appointment to serve on the Metropolitan Transportation Authority (MTA) Westside/Central Service Sector Governance Council and directed staff to advertise the position. The motion carried unanimously.

ITEM 7 COUNCIL ITEMS

ADJOURN At 10:42 p.m., Councilmember Stern moved and Mayor Pro Tem Kearsley seconded a motion to adjourn. The motion carried unanimously.

Approved and adopted by the City Council of
the City of Malibu on January 27, 2003.

JEFFREY D. JENNINGS, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)